



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/160149

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 22, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 18, 2014, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's PA request for Sovaldi.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Lynn Radmer

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On July 16, 2014, the Petitioner's provider submitted a PA request for Sovaldi at a cost of \$29,578 for a four week supply. Petitioner's total treatment is expected to last 12 weeks.

3. Petitioner has stage F2 disease. She does not have cirrhosis of the liver.
4. On August 6, 2014, the agency issued a notice to the Petitioner informing her that her PA request was denied.
5. On August 22, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

Drugs that the Department has determined entail substantial cost or utilization problems for the MA program require prior authorization. These drugs are to be noted in the Wisconsin MA drug index. Wis. Admin. Code § 107.10(2).

Sovaldi is a non-preferred drug in the Hepatitis C Agents PDL class. Sovaldi's estimated average cost/treatment is \$84,000. Due to this high cost, Sovaldi requires prior authorization.

ForwardHealth Updates provide information for prescribers and pharmacy providers about changes to the Preferred Drug List and other pharmacy policy changes. Clinical criteria for Sovaldi were updated by the Department on July 1, 2014. PA requests for Sovaldi for members whose hepatitis C liver disease has advanced to any of the following stages may be considered for review:

Compensated cirrhosis  
 Metavir score of F3 or greater or evidence of bridging fibrosis  
 Hepatocellular carcinoma (HCC), if the member is on a liver transplant waiting list  
 Serious extra-hepatic manifestations of hepatitis C virus (HCV)

In cases where the member does not meet the above review criteria, the provider and member may decide to proceed with treatment using preferred hepatitis C drugs.

ForwardHealth Update, June, 2014.

The Petitioner does not dispute that she does not meet the criteria that are required for approval of Sovaldi. I recognize the Petitioner's argument. She asks why she must wait until her condition is more severe to get this treatment. Her quality of life and her work life is compromised. Other medication she has tried has resulted in digestive upset. She noted that she has a relative with the same condition who has successfully received treatment with Sovaldi. I do not have equitable authority and therefore must apply the regulations and policies as written. The evidence is clear and undisputed that the Petitioner does not meet the Department's criteria for approval of treatment with Sovaldi. Therefore, I must conclude that the agency properly denied the PA request.

### **CONCLUSIONS OF LAW**

The agency properly denied the Petitioner's PA request for Sovaldi.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of October, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 28, 2014.

Division of Health Care Access and Accountability